

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MAYOR AND CITY COUNCIL OF
BALTIMORE,

Plaintiff,

v.

BP P.L.C., *et al.*,

Defendants.

Case No.: 1:18-cv-02357-ELH

**DEFENDANTS' MOTION TO TEMPORARILY EXTEND
STAY OF REMAND ORDER PENDING RESOLUTION OF STAY
APPLICATION TO THE SUPREME COURT¹**

Chevron Corporation and Chevron U.S.A. Inc., on behalf of Defendants BP P.L.C., BP America Inc., BP Products North America Inc., Crown Central LLC, Crown Central New Holdings LLC, Exxon Mobil Corporation, ExxonMobil Oil Corporation, Royal Dutch Shell plc, Shell Oil Company, CITGO Petroleum Corporation, ConocoPhillips, ConocoPhillips Company, Phillips 66, Marathon Petroleum Corporation, Speedway LLC, Hess Corporation, CNX Resources Corporation, CONSOL Energy, Inc. and CONSOL Marine Terminals LLC (collectively, “Defendants”), hereby move for a brief and temporary extension of the stay of this Court’s Order remanding this case to the Circuit Court for Baltimore City (“Remand Order”), to allow the Supreme Court of the United States time to resolve Defendants’ Application to Stay the Remand Order, filed earlier today (October 1, 2019), and in support thereof, state as follows:

1. On June 11, 2019, this Court issued its Remand Order remanding this action to the Circuit Court for Baltimore City. ECF No. 173. Per this Court’s Order approving the Parties’ Joint Stipulation (ECF No. 184), the Remand Order was stayed “through the resolution

¹ This Motion is submitted subject to and without waiver of any defense, affirmative defense, or objection, including personal jurisdiction, insufficient process, or insufficient service of process.

of Defendants’ ... Motion to Stay in the U.S. Court of Appeals for the Fourth Circuit[.]” ECF No. 185. Further, the Order directed the Clerk of the Court to refrain “from mailing to the Clerk of the Circuit Court for Baltimore City the Remand Order *until further Order of this Court.*” *Id.* (emphasis added).

2. On October 1, 2019, the United States Court of Appeals for the Fourth Circuit denied Defendants’ Motion to Stay Remand Pending Appeal. ECF No. 196.²

3. Earlier today (October 1, 2019), Defendants filed an Application to Stay the Remand Order with the Supreme Court of the United States (“Application”), a copy of which is attached hereto as **Exhibit A**.

4. Defendants ask that this Court enter a brief and temporary extension of the stay of the Remand Order so that the Application can be considered and resolved by Chief Justice Roberts of the Supreme Court. Defendants expect that a ruling for a temporary stay, or a stay pending resolution of the Fourth Circuit appeal, will occur in a very short time frame. Indeed, in a recent global-warming related case (*In re United States of America, et al.*, No. 18A410), a temporary stay was entered by the Supreme Court *the day after* the application was submitted to the Chief Justice.

5. If this Court denies the relief sought, and the Remand Order is mailed to the Circuit Court for Baltimore City, Defendants’ Application may be moot. A brief extension of the stay, however, will allow Chief Justice Roberts to consider the Application before the Remand Order is mailed to the Circuit Court. Moreover, a brief extension of the stay will not injure Plaintiff, but will instead preserve the Parties’ resources and promote judicial economy by avoiding litigation in state court while the Supreme Court considers Defendants’ Application.

² Oral argument on the Fourth Circuit appeal has been tentatively calendared for the December 2019 session. *See Mayor and City Council of Baltimore v. BP PLC, et al.*, No. 19-1644 (4th Cir.) (ECF No. 113).

6. Accordingly, Defendants respectfully request that the Court briefly extend the stay of the Remand Order through the Supreme Court's resolution of the Application. Defendants further request that the Court direct the Clerk of the Court to continue to refrain from mailing to the Clerk of the Circuit Court for Baltimore City a copy of the Remand Order until further Order of this Court.³

WHEREFORE, Defendants respectfully request that the Court: (a) grant this Motion to Temporarily Extend Stay of Remand Order Pending Resolution of Stay Application to the Supreme Court; (b) extend the stay of the Remand Order through resolution of Defendants' Application filed with the Supreme Court; and (c) direct the Clerk of the Court to refrain from mailing to the Clerk of the Circuit Court for Baltimore City the Remand Order until further Order of this Court.

Respectfully submitted,

Dated: October 1, 2019

By: /s/ Ty Kelly
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³ Counsel for the Chevron Defendants have conferred with counsel for Plaintiff regarding the relief sought herein; counsel for Plaintiff indicated Plaintiff intends to oppose this Motion.

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*Attorneys for Defendants CHEVRON CORP.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of October 2019, the foregoing document was filed through the ECF system and was therefore served on all registered participants identified on the Notice of Electronic Filing.

/s/ Ty Kelly
Ty Kelly